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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/653,193

09/03/2003

Masami Mackawa

SUT-0225

1753

74384

7590

04/02/2008

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EXAMINER

PORTER, RACHEL L

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

04/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/653,193

Applicant(s)

MAEKAWA, MASAMI

Examiner

RACHEL L. PORTER

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed 9/3/03. Claims 1-20 are pending.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The present claim recites “ a computer program for causing a computer to. . .the program comprising” in the preamble. The program then recites a series of steps. It should be noted that data structures not embodied on a computer readable media are considered descriptive material. They are therefore considered non-statutory because they are not capable of causing a functional change in a computer. As drafted, the claim fails to define any structural and functional interrelationships between the code and other elements of a computer that permit the computer program’s function to be realized. (See MPEP § 2106.01)

For a claimed invention to be statutory, the claimed invention must also produce a useful, concrete, and tangible result. Under this analysis, the present language of exemplary claim 1 merely recites non-functional descriptive material, as no recitation of executable code being embodied on any medium or data structure is provided.

In light of the above, it is respectfully submitted that the claimed invention, does not have a tangible result, and thus fails to recite the practical application of an abstract idea to satisfy the requirements of 35 U.S.C. 101.

A similar analysis may be applied to dependent claims 2-20.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kameda et al (US 5,923,018--hereinafter Kameda).

[claim 1] Kameda discloses an examination scheduling program for a nuclear medical examination apparatus for causing a computer to create a schedule for each patient including an examination by the nuclear medical examination apparatus and a medication accompanying the examination, said program comprising:

- a step of fetching information on contents of the examination for each patient and an order of examinations; and (col. 10, lines 40-49)

- a step of creating an examination schedule to avoid overlapping in time of timing of the medication and the examinations according to said information on said contents of the examination add said order of examinations, while maintaining fixed a waiting time from the medication to the examination set for each patient according to a type of examination. (col. 10, lines 50-65)

[claim 2] Kameda discloses an examination scheduling program as defined in claim 1, wherein said schedule for each patient is expressed by a pattern having a time span according to the type of examination, said pattern presenting the timing of the medication, the waiting time and the contents of the examination. (Figure 8; col. 18, lines 9-31)

[claim 3] Kameda discloses the examination scheduling program as defined in claim 1, wherein said schedule for each patient is displayed in form of a pattern on a time chart, with a line representing present time displayed to move on the time chart with progress of time. (Figures 5-7)

[claim 4] Kameda discloses the examination scheduling program as defined in claim 2, wherein said schedule for each patient is displayed in form of a pattern on a time chart, with a line representing present time displayed to move on the time chart with progress of time. (Figures 4,9)

[claim 5] Kameda discloses the examination scheduling program as defined in claim 1, wherein said schedule is altered by moving said pattern on said time chart with a pointing device.

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[claims 6-8] Kameda discloses the examination scheduling program as defined in claim 2, wherein said schedule is altered by moving said pattern on said time chart with a pointing device. (col. 12, lines 56-59—various input devices include a mouse, i.e. a point device)

[claims 9-16] Kameda discloses an examination scheduling program, wherein said schedule for each patient is under control, and a correlation is made between actual measurements including actual medication and examination times, and data collected by said medical examination apparatus. (Figure 5,6, 9; col. 17, lines 1-48; col. 18, lines 32-66)

[claims 17-20] Kameda discloses the examination scheduling program as defined in 1, further comprising a step of inputting an actual medication time, a step of comparing a scheduled medication time and said actual medication time, and a step of creating an examination schedule all over again when said step of comparing shows a disagreement. (Figure 5; col. 17, lines 1-29: result flag shows if medical action has or has not been performed.)

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Rapaport et al (US 2006/0161457 A1) discloses a method of scheduling tests and distributing medical information.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL L. PORTER whose telephone number is (571)272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, (Christopher) Luke Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. L. P./
Examiner, Art Unit 3626

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626